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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,130	07/13/2001	Philippe Gentric	FR 000075	3857

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EXAMINER

CHEA, PHILIP J

ART UNIT PAPER NUMBER

2153

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/905,130

Applicant(s)

GENTRIC, PHILIPPE

Examiner

Philip J. Chea

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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### **DETAILED ACTION**

This Office Action is in response to an Amendment filed March 9, 2006. Claims 1-20 are currently pending, of which claims 5-20 are new. Any rejection not set forth below has been overcome by the current Amendment.

#### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 2,12-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language of the claim raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Taken from the 101 interim guidelines:

“A product is a tangible physical article or object, some form of matter, which a signal is not. That the other two product classes, machine and composition of matter, require physical matter is evidence that a manufacture was also intended to require physical matter. A signal, a form of energy, does not fall within either of the two definitions of manufacture. Thus, a signal does not fall within one of the four statutory classes of § 101.”

Claims 2 and 12-13 are directed towards a coded signal. This coded signal does not fall within one of the four statutory classes of § 101.

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***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted Prior Art, and further in view of Jones et al. (US 6,453,355), herein referred to as Jones.

As per claims 1,16, Applicant discloses a Motion Picture Experts Group (MPEG-4) encoder comprising:

an .mp4 file track media generator configured for generating, as a first output of encoding by said encoder, an .mp4 file comprising, as encoded content, a media track (see page 1, lines 21-23); and

a fragmentation structure file generator configured for generating a fragmentation structure file as a second output of encoding by said encoder with said first output, both outputs being configured as input for a hinter program configured for creating as output, based on said second output and an output of said media track generator (see page 2, lines 21-29), a hinted file that comprises said output of said media track and a hint track that contains pre-segmentation information usable at a server in segmenting, into network packets, said output of said media track generator in said hinted file (see page 2, lines 8-10), said hinted file being configured for each MPEG-4 data entity in said output of said media track generator in said hinted file (see page 1, lines 24-27) and, for each of said packets for said entity, a size in bits of a fragment to be created by said segmenting (see page 2, lines 14-16).

Although the system disclosed by Applicant Admitted Prior Art shows substantial features of the claimed invention (discussed above), it fails to disclose the fragmentation structure file generated simultaneously as a separate file and the hinted file being configured with a specification of a number of network packets.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by the Applicant, as evidenced by Jones.

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In an analogous art, Jones discloses a system for processing media data transmitted in a data communication medium (see Abstract). Jones additionally shows that the fragmentation file is stored as a separate file during encoding (see column 16, lines 62-67) and that steps in creating the encoded media file may be done simultaneously (see column 8, lines 58-65). Further Jones discloses the hinted file being configured with a specification of a number of network packets (see column 26, lines 3-5).

Given the teaching of Jones, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Applicants Admitted Prior Art by employing the teaching of Jones, in order to play media over different transport types without making any additional changes to the media itself.

As per claim 2, Applicants Admitted Prior Art in view of Jones further discloses a coded signal configured for processing by a processor receiving said signal from a computer-readable medium, said signal being created from output of a Motion Pictures Experts Group 4 (MPEG-4) (see Applicant Prior Art page 1, lines 21-23) encoder to form a bitstream having two sides and including, on one of the sides, media data stored in an MPEG-4 file format and, on the other of the sides, a pre-segmentation information indicating how to fragment MPEG-4 data entities in said media data (see Jones Fig. 4) in order to match size resulting packets for transmission on a transmission network to a size specific to said transmission network (see Jones column 9, lines 24-35).

As per claims 3,14,17, Applicants Admitted Prior Art in view of Jones further disclose an MPEG-4 terminal having a processor for receiving a coded signal, said processor being configured for reading the received signal according to a file structure having the following syntax:

Loop on MPEG-4 Access Units until end-of-file, and, for each Access Unit:

    Read a specified number N of fragments;

    Loop on fragments until N, wherein for each fragment:

        Read size, in bits, of the fragment;

    End-of-loop on fragments;

End-of-loop on Access Units (see Jones Fig. 11, where these steps are implied, if not inherent, for a receiving system to accept the entire stream of data).

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As per claims 4, Applicants Admitted Prior Art in view of Jones further disclose a hinter program is provided for generating, from an .mp4 file, a new .mp4 file containing hit tracks that are both media and network specific, said new .mp4 file being transmitted for the reception by said processor as said coded signal (see Jones 13, lines 39-54).

As per claim 5, Applicants Admitted Prior Art in view of Jones further disclose that the fragmentation structure file generator is further configured so that said generating of said fragmentation structure file occurs in response to a request for said content by a client of said server (see Jones column 7, lines 51-59).

As per claims 6,18, Applicants Admitted Prior Art in view of Jones further disclose that the server is video-on-demand server (see Jones column 8, line 66 – column 9, line 11).

As per claim 7, Applicants Admitted Prior Art in view of Jones further disclose that the .mp4 file is configured for storing a plurality of media tracks, and respective hint tracks, said respective hint tracks including, for adaptation of encoded content of the plural media tracks to a size of said network packets of a given type of network (see Jones column 7, lines 51-59 and column 22, lines 40-47), said pre-segmentation information indicating how to fragment MPEG-4 data entities stored in said plural media tracks to match said size, said pre-segmentation information being derived from information in said fragmentation structure file for structuring a coded bit stream into entities that are independent to recover some context even if a packet from among said network packets is lost (see column 10, lines 32-46).

As per claim 8, Applicants Admitted Prior Art in view of Jones further disclose the server comprising the encoder and said hinter program (see Jones Fig. 13).

As per claims 9,19, Applicants Admitted Prior Art in view of Jones further disclose archiving the fragmentation structure file for subsequent retrieval as said input (see Jones column 7, lines 51-59).

As per claims 10,20, Applicants Admitted Prior Art in view of Jones further disclose that the retrieval occurs in response to a request, by a client of said server, for content (see Jones column 7, lines 51-59).

As per claim 11, Applicants Admitted Prior Art in view of Jones further disclose that the fragmentation structure file generator is further configured so that said generating of said fragmentation

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structure file occurs in response to a previous request, by a client of said server, for content (see Jones column 27, lines 18-29).

As per claim 12, Applicants Admitted Prior Art in view of Jones further disclose the processor performing the segmenting on the received hinted file (see Jones column 14, lines 5-18).

As per claim 13, Applicants Admitted Prior Art in view of Jones further disclose that the hinted file is transmitted, for reception by said processor, as a bit stream having two sides and that comprises, on one of said two sides, said output of said media track generator and, on the other of said two sides, said hint track (see Jones Fig. 4).

As per claim 15, Applicants Admitted Prior Art in view of Jones further disclose that the size of the fragment to be read is represented in said bit stream by ASCII delimited by a separator character (see Jones column 24, lines 26-30 and column 2, lines 16-49).

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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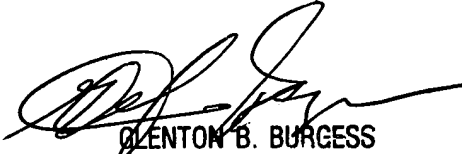
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J. Chea whose telephone number is 571-272-3951. The examiner can normally be reached on M-F 7:00-4:30 (1st Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Philip J Chea  
Examiner  
Art Unit 2153

PJC 5/16/06



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